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The Sovereignty of God and the Caliphate of Man

The crisis of the caliphate in the 1920s stood at the boundary between the fall of the old world and the birth of mass politics in the Muslim world, including the Islamist movement. As is well known, the central rallying cry of the Sunni Islamist movement during the middle of the twentieth century was the proclamation of God's exclusive sovereignty (*ḥākimiyya*) over the world and human legislation. As formulated most popularly by the Pakistani Abū'l A'lā Mawdūdī (1903–1979) and the Egyptian Sayyid Quṭb (1906–1966), what I call “high utopian Islamism” (rather than the less accurate “fundamentalism”) was skeptical of (if not outright contemptuous toward) any form of identification with modern Western ideals of governance.

More germanely, the writings of the main Islamist thinkers of this period are characterized by a much more explicit concern with discussing the *concept* of sovereignty in Islam. What I am concerned to note here, first, is the establishment of something called “divine sovereignty” (which I suggested was merely tacit in the thought of Riḍā) as the arch-standard of legitimacy for all political, legislative, and moral action. The statements of Sayyid Quṭb on the rigorous demands of a commitment to divine sovereignty remain among the most influential:

If we look at the sources and foundations of modern modes of living, it becomes clear that the whole world is steeped in *jāhiliyya* [pagan ignorance] . . . based on rebellion against the sovereignty of God on earth. It attempts to transfer to man one of the greatest attributes of God, namely sovereignty, by making some men lords over others . . . in the more subtle form of claiming that the right to create values, to legislate rules of collective behavior, and to choose a way of life rests with men, without regard to what God has prescribed.¹

In short, the common Abrahamic belief in God's cosmic, creative sovereignty—what we might call divine sovereignty as fact—leads to an uncompromising insistence on God's exclusive legislative and normative sovereignty, or divine sovereignty as norm.

But, as is well known, Quṭb himself was influenced by reading Mawdūdī in Arabic translation.² Born in Aurangabad, India, Mawdūdī received training in a local *madrasa*, but began his professional life as a journalist. He was the editor of the official journal of the Association of Indian 'Ulamā' from 1924–1927, around which period he was also active in the Khilafat Movement, an Indian anticolonial movement (1919–1924) dedicated to supporting the preservation of the Ottoman Caliphate.³ From 1932, he edited the monthly journal *al-Tarjumān al-Qur'ān*, where he developed and published his ideas for most of the rest of his life.⁴

It was here, as he later reflected, that the distinctive features of modern Islamist thought emerge, specifically in the ideas of Islam as a comprehensive code or system that required nothing from alien systems of thought. It is this belief in Islam's systematicity, comprehensiveness, and self-sufficiency that leads to an insistence on establishing the state on the foundations of divine sovereignty. To this end he founded in 1941 the *Jama'āt-i Islāmī*, which he led until 1972 and through which he exerted extraordinary influence on those constitutional developments in the early years of independent Pakistan that enunciated a commitment to divine sovereignty and the supremacy of the *sharī'a*.⁵

Mawdūdī's writings were voluminous, ranging from his commentary on the Qur'ān (*Tafhīm al-Qur'ān*, translated as *Towards Under-*

standing the Qurʾān) to works on law, Islamic philosophy, history, economics, and theology. What concerns us here are his main works of political theory, including an early lecture on the political theory of Islam, a collection of writings published as *The Islamic Law and Constitution*, and a later work entitled *Caliphate and Kingship*. This chapter explores the contours of this authoritative articulation of some of the core features of modern Islamist political theology, in particular the interaction of his assertion of divine sovereignty alongside the politicization and popularization of the doctrine of the caliphate of man.⁶

Mawdūdī was not the first to argue for some form of popular sovereignty with an Islamic referent. We saw in the previous chapter that ideas of popular sovereignty were in circulation around the time of the transition from the Ottoman caliphate to postwar nation-states (with even some secular nationalists describing the nation as God’s representative on earth). In an early (1908) essay by the great twentieth-century Indian-Pakistani poet and philosopher Muhammad Iqbal, he writes that in Islam “Political Sovereignty *de facto* resides in the people; and that the electorate by their free act of unanimous choice embody it in a determinate personality in which the collective will is, so to speak, individualised, without investing this concrete seat of power with any privilege in the eye of the law except legal control over the individual wills of which it is an expression.” Without here invoking the doctrine of the universal caliphate, Iqbal adds that “the idea of universal agreement is, in fact, the fundamental principle of Muslim constitutional theory. ‘What the Muslim community considers good,’ says the Prophet, ‘God also considers good.’”⁷ Also, as I stressed in my introduction, the history of modern political thought in the Islamic world is not simply the history of Islamic, or Islamist, thought. Muslims were not waiting for religious scholars or Islamist intellectuals to “invent” popular sovereignty. Rather, my claim is twofold: First, that popular sovereignty is a crucial development within a particular ideological tradition, one so crucial, in fact, that it is often denied or downplayed within the discourses of that tradition. Second, that what matters are less isolated declarations of support for popular sovereignty than more systematic theoretical accounts of how it is an important commitment given other commitments, specifically to divine sovereignty.

It is the growth of the ideal of popular sovereignty within a politically and intellectually influential *theocratic* movement that is the concern of this book.

The Introduction of Divine Sovereignty

For many scholars of modern Islamic thought, the political and ideological assertion of “divine sovereignty” as the master principle of Islamic political thought was less an inevitable consequence of Islam’s radical monotheism and theological voluntarism than a modern discovery. The least that might be said is that modern Islamic political theory foregrounds (without inventing) the symbolic question of where sovereignty ought to lie in the state. As we saw in previous chapters, the theorization of public authority and the rule of law in the nineteenth and early twentieth centuries did not require extensive declarations of divine sovereignty. Thus, there is a problem to be addressed of how the rhetoric and centrality of “sovereignty” in the juridico-political sense enter into modern Islamic thought.

This chapter thus proceeds on the widely shared understandings that Mawdūdī’s writings represent the emergence of a particularly clear and stark articulation of the demand for God’s sovereignty to be acknowledged and upheld in modern Muslim states⁸ and that Mawdūdī’s theories are not only of South Asian significance but shaped heavily the thinking of Arab and other Muslim thinkers.⁹ But we also arrive in this chapter at the emergence of the central theme of this book, the importance of the doctrine of the “universal caliphate” for political theory. It is here, rather than in a supposed invention of divine sovereignty, that modern Islamist thought takes its crucial turn of insisting on humankind’s (or at least the *umma*’s) collective custodianship of God’s sovereignty.

This chapter explores the simultaneous development of commitments to divine and popular sovereignty in Mawdūdī’s political theory. Although I submit that Mawdūdī does introduce (or at least make mainstream) some of the core theological innovations that underpin a kind of vision of popular sovereignty, his political theory re-

mains weighted much more heavily on the side of an anti-democratic assertion of divine sovereignty. I argue that this political commitment to divine sovereignty entails (1) a view of divinity as defined as the giving of law; (2) a critique of non-divine claims to legal sovereignty as a form of idolatry and, in fact, the source of domination; (3) a moral and epistemic critique of secular democracy; (4) an account of the fundamentally emancipatory qualities of the divinely revealed law; and finally (5) an assertion of the undelegated authority of experts (in the religious law) over the legislative aspects of sovereignty. Collectively, these understandings of the meaning of God's sovereignty give shape to the anti-popular elements of Mawdūdī's political thought.

But these anti-democratic elements are only part of his overall theory. As is well known, Mawdūdī refers to his own vision as "theo-democracy," and my aim in this chapter is largely to chart the way in which Mawdūdī facilitates the rise of a kind of political theology of popular sovereignty in modern Islamist thought. Although it is less developed and less fulsome in its endorsement of popular sovereignty than what is to be found in later thinkers, I argue that Mawdūdī advances this conception of "theo-democracy" through the following themes: (1) the common Sunni view of the people as the origin and effective cause of any executive power; (2) the role of the people in modifying, updating, or filling in the gaps of the divine law; (3) the political interpretation of the doctrine of the universal human vicegerency—the caliphate of man; and (4) the vision of a perfectionist political order that is at least in part sustained and governed by a people united in a conception of virtuous political action.

Divine Sovereignty and the Limits of Politics

Mawdūdī's political theory is cosmological at its foundation. Mawdūdī stresses a few familiar doctrines: that God is the Creator of the universe and everything in it, including man and the things of the world from which he benefits; that God is the king and ruler of this creation and everything that occurs within it; that sovereignty over this creation belongs to none other than God, which leads to an awareness of

God's creative and governing sovereignty over all that exists in the universe; that God is capable of all things, controlling of all things, and the owner of all things; and that God is unaccountable for whom He rewards or punishes in the afterlife.¹⁰

This statement of God's effective sovereignty over everything that occurs in the world leads in quick succession to affirmations of "divine sovereignty" (*al-ḥākimiyya al-ilāhiyya*) over humans. This sovereignty is now defined less as a metaphysical fact about why things occur in the way they do than as a moral right that God possesses, one that He exercises not through physical compulsion, but through speech.¹¹ Mawdūdī's concern with the theological and metaphysical aspects of God's sovereignty is exactly as brief as this. The cosmic dimension of the fact of God's sovereign power and control is but a foundation for addressing his true concern: God's ethical and legislative sovereignty.

Divinity as Law

Mawdūdī's elaboration of the meaning of sovereignty as a concept is radically voluntarist. To speak of sovereignty is to speak of "absolute overlordship or complete suzerainty." Sovereignty is the

undisputed right to impose his orders on all subjects of the State, and the subjects are under an absolute obligation to obey. . . . No outside agency, but his own will, imposes any limitations or restrictions on his power to rule. No subject has any rights against him or in contravention of his orders . . . every right in law comes into existence only because the Law-Giver desires it to be so. . . . Laws come into existence by dint of the will of the Sovereign and place all subjects of the State under an obligation to obey them; but no law binds the sovereign himself . . . in relation to his orders, questions of good and evil and right and wrong cannot and should not arise at all. Whatever he does is just and no subject of his can question his conduct or his orders and their enforcement, even by declaring them evil. His behavior is the criterion of right and wrong, and none can question it.¹²

Mawdūdī's moral argument for divine sovereignty can be formalized in the following way:

1. Sovereignty is the absolute right to command without being questioned;
2. Any human who claims sovereignty will inevitably be asked about the origin of his right to rule;

Thus:

3. Because only God can command without being asked for a justification, only God can be considered morally sovereign.

Mawdūdī himself seems to recognize that this argument is not valid in a logical sense. He entertains the idea that democratic authorization might be invoked for the exercise of legislative sovereignty. "The question will inevitably be asked: What justification is there for the investment with those powers and for that sovereign authority? The most that can be said in reply to this would be that a general consensus of opinion justifies such a course." This would be the claim of popular constituent power. But Mawdūdī in this case uses Rousseau's own democratic argument against Grotius to refute democracy itself: "But are we prepared to accept such a contention? Suppose a person willingly auctions himself. Does the purchaser really become his owner? If it is not so, we may well ask: How can the mere passive acceptance by the people of such an investment justify this alleged sovereign status?"¹³ Of course, Rousseau had used this example to refute Grotius's claim that because a person may voluntarily submit to slavery, *a fortiori* a people can submit to an absolute monarch. Because a person may not submit to slavery for life, a people may not submit to a monarch with no power to revoke his authority.¹⁴ Perhaps Rousseau would agree with Mawdūdī that the passive acceptance by an entire people of an absolute monarch's rule does not provide justification for *this kind* of government. But Mawdūdī does not entertain arguments for democratic legitimacy in any serious way here. His point is to prove that any human form of sovereignty is necessarily illegitimate domination.

People have a right to not be illegitimately dominated, not to collective self-rule.

But despite his confidence in this logical deduction, Mawdūdī relies almost entirely on verses from the Qurʾān that he regards as self-explanatory to establish God’s absolute and exclusive right to be obeyed by humans. Q. 10:32–33¹⁵ prove simply that “the lord of the universe is the lord of mankind and must be submitted to.” Q. 42:10¹⁶ and 12:40¹⁷ are evidence that “No one else has the right to rule [*ḥukm*] and determination [*qadāʾ*] but God, and mankind is simply required to obey and worship.” Q. 3:54¹⁸ establishes God’s exclusive right to rule and judge [*ḥukm*] from His act of creation. Q. 5:40¹⁹ in turn grounds God’s exclusive right to rule and judge [*ḥukm*] from His being the lord or king [*mālik*] of the universe and all that is in it. Finally, Q. 2:216²⁰ and many others establish God’s exclusive right to issue commands and laws on the grounds of His sole knowledge of the truth, His determination of man’s true goal and the identification of the sound path to this guidance.²¹

The full expression of this right is “God’s legal sovereignty” (*ḥākimiyyat Allāh al-qānūniyya*), which Mawdūdī explains in the following way:

The Qurʾān establishes that obedience must be rendered to God alone and that only His law [*qānūn*] must be followed. It is forbidden for man to neglect or abandon this law and follow the laws of others, or his own law [*shirʾa*] or whims. . . . Similarly, the Qurʾān says that every rule or judgment that opposes the law of God is not only a mistake or a sin, but is unbelief, error, injustice, and depravity. Any such law is the law of pagan ignorance [*jāhiliyya*].²²

Mawdūdī is also not particularly interested in (or adept at) any more technical theological or meta-ethical questions related to the implications of divine ethical voluntarism. Rather, what matters for him is that God’s creative, causal, moral, and legal sovereignty obviously lead to a principle of political legitimacy based on this sovereignty: “The correct form for human governance in the view of the Qurʾān is that the state believes in the legal sovereignty of God and the Prophet and re-

nounces its own sovereignty in favor of them. It must also believe that the caliphate is the deputy of the true Ruler and that its powers must be limited in accordance with what was stated earlier, whether those powers be legislative, judicial or executive.”²³ “A system of government that turns its face from God and becomes a free system governing itself by itself is not a caliphate, but an insurrection against and a usurpation of the true authority.”²⁴

Implicit in the very understanding of what it means to recognize one’s Creator is to recognize that lawgiving is not an accidental aspect of divinity, but rather intrinsic and necessary to it. Divinity *means* lawgiving. But beyond the conceptual imperative, what does divine sovereignty mean in practice? It cannot mean that humans do not wield coercive power or authority unless it were believed that God executes His own laws and commands in this world, carrying out the punishments and rewards for disobedience or faithfulness immediately. Rather, belief in the unity and sovereignty of God means “no one is entitled to make laws on his own authority and none is obliged to abide by them.” Taking divine sovereignty seriously means that “no man, even a Prophet, has the right to order others in his own right to do or not to do certain things.”²⁵

More importantly, it means that no people can fully legislate for itself collectively. The principle of divine sovereignty, when articulated in the twentieth century, is often mobilized in opposition to (secular) dictatorships, but its primary force is as a refutation of democracy and popular sovereignty. A nation of believers is not morally free to give itself “totally independent legislation nor can they modify any law which God has laid down, even if the desire to effect such legislation or change in Divine laws is unanimous.” Rather, a people’s freedom should only extend as far as authorizing state power to enact God’s law, and such a state will be entitled to obedience in its capacity as a political agency set up to enforce the laws of God and only insofar as it acts in that capacity, as “command is the exclusive prerogative of God,” . . . “a State becomes Islamic only when it recognizes in clear terms the political and legal sovereignty of God and binds itself to His obedience and acknowledges Him as the Paramount Power, Whose commands must be upheld.”²⁶

The political and legislative agency that this conception of divine sovereignty authorizes is a somewhat complex issue that I untangle in the following sections. But one important principle established—at least at the level of a theoretical norm—is that the sovereignty of state authorities is undermined by the idea of divine sovereignty. For Mawdūdī, the right of divine sovereignty does not only vest in the law in the abstract sense, nor in the state as the concrete manifestation of law's authority, but also in the community and individual believers: “if [state authorities] rule in contravention of the teachings of the Qur’ān and Sunna, the Muslims must disobey them,” Mawdūdī writes.²⁷ This is a first glimpse at the way in which a radical turn to divine sovereignty in Islamist thought also enables popular political agency.

Lawgiving as Idolatry

If divinity is defined as the right of lawgiving, non-divine claims to legislate are thus forms of idolatry, pretensions to divinity. Mawdūdī speaks about humankind's will to divinize itself through lawmaking. Animals, never mind inanimate objects, do not make claims to divinity or lordship:

It is only man who can, and does, claim godhood in relation to his fellow-beings. It is only man's excessive lust for power and desire for exploitation that prompts him to project himself on other people as a god and extract their obedience; force them to bow down before him in reverential awe, and make them instruments of his self-aggrandizement. The pleasure of posing as a god is more enchanting and appealing than anything else that man has yet been able to discover. Whoever possesses power or wealth or cleverness or any other superior faculty develops a strong inclination to outstep his natural and proper limits, to extend his area of influence, and to thrust his godhood upon such of his fellow men as are comparably feeble, poor, weak-minded, or deficient in any manner.²⁸

To claim the right to make law is to claim the right to command a fellow creature, which is to set oneself over him as a master over a slave. This

will to self-divinize is an erotic impulse—men claim godhood partly for the pleasure of command and superiority. But there is an important reversal of Freudian or Nietzschean genealogies of religion: it is not man who creates a God after his own desires, needs, or fantasies. Rather, man intuits these desires and fantasies out of the knowledge of God's attributes.

Historically, Mawdūdī sees two classes of tyrants who have aspired to this form of godlike domination: kings and priests. His vision of the essence of kingship is not far at all from Hobbes's ideal of sovereignty. The sovereign is like a "mortal god": "it is not necessary for a man who claims godhood that he should openly declare himself to be an *ilāh* or *rabb*. All persons who exercise unqualified domination over a group of men, who impose their will upon others, who make them their instruments and seek to control their destinies in the same manner as Pharaoh and Nimrod did are essentially claimants to godhood."²⁹ Priests exercise similar domination to kings, but not in their own name. They invest some inanimate object with godhood or claim that they are the sole intermediaries between humans and god. When priests "proclaim themselves to be bearers of the Book of God," their claim amounts to domination and self-divinization because "they deliberately keep the common people ignorant of its meaning and contents. Constituting themselves into mouthpieces for God, they start dictating to others what is permissible and what is forbidden. In this way their word becomes law and they force people to obey their own commands instead of those of God."³⁰

But today the primary manifestations of idolatry are the theory of popular sovereignty and the divinization of the state. Human whims and desires,³¹ as well as attachment to the ways and customs of tribal ancestors,³² are denounced as no less idolatrous rejections of God than sacral kingship. If the powers of the secular state are akin to the false gods and idols described in the Qur'ān, and if "power relations are the substance of life, closely interwoven into it . . . the basis and texture of all social relations and institutions [and] no life can be God's without bringing all of them under God,"³³ then "can a Muslim be a Muslim without striving to demolish them and wrest all power from these powers to bring it under God? Is that not politics?"³⁴

Thus, although Mawdūdī shares with many democrats and republicans the concern with domination in political life, for him secular democracy is another form of domination—indeed, one with its own distinct ills and risks. The problem is not domination alone, but that human rule is always inherently a form of domination. This is also the essence of Mawdūdī’s philosophical explanation of the origin of evil. “The root-cause of all evil and mischief in the world is the dominion of man over man, be it direct or indirect. This was the origin of all the troubles of mankind and even to this day it remains the main cause of all the misfortunes and vices which have brought untold misery on the teeming humanity. God, of course, knows all the secrets of human nature.”³⁵ The troubles that flow from one person’s lordship and domination over other people include “tyranny, despotism, intemperance, unlawful exploitation, and inequality.”

Of course, this requires some explanation: if man-made law and rule is inherently a kind of usurpation of God’s rights, and thus a form of idolatry then this alone doesn’t explain why it is also a cause of these further evils. In addition to the illegitimacy of humans commanding other humans, we need an account of why man-made law will be substantively evil. Moreover, it is difficult to see domination as the *root* cause. What is it that causes humans (who, generally in Islamic thought, are not characterized by original sin) to choose their own values or laws when the option to accept God’s law is available? The “excessive lust for power and desire for exploitation” and “pleasure of posing as a god” seem more radical than “the dominion of man over man.” The latter seems more plausible as the outcome or symptom of some more radical defect.

Mawdūdī’s Critique of Democracy

In addition to the charge that democracy is usurpation and idolatry, he advances a further principled and theoretical objection on the grounds of the insufficient rationality and epistemic virtue of the people:

The common people are incapable of perceiving their own true interests. It is in the natural weakness of man that in most of the affairs concerning his life he takes into consideration only

some one aspect of reality and loses sight of some other aspects. His judgments are usually one-sided, and he is swayed by emotions and desires such that rarely, if ever, can he judge important matters with the impartiality and objectivity of scientific reason. Quite often he rejects the plea of reason simply because it conflicts with his passions and desires.³⁶

As radical a critique of the rule of the people as this is, it is partial and limited in an important way. Humans are not completely incapable of judging on questions of means and ends, or entirely lacking in knowledge of what might benefit their social condition. But we are fallible judges of our ultimate, true interests, not necessarily because of any inherent cognitive incapacity to know our true interests (as in Plato, e.g.), but because our judgment is burdened by passions. We suffer from a kind of *akrasia* of judgment.

It is noteworthy that this present argument of Mawdūdī's is not far from Rawls's argument about the "burdens of judgment" for political liberalism³⁷ or Hume's view of reason as a "slave of the passions." Mawdūdī rejects the liberal conclusion that because of this general condition of human reason political power must be as impartial as possible when it comes to endorsing truth in these most "important matters." Rather, because ordinary people are prone to mistaking their true interests, "man is not competent to become an absolute legislator." For Mawdūdī this kind of absolute sovereignty that man is denied would especially include the judgment that politics should aspire to neutrality because of reasonable doubt or pluralism about God's guidance. That itself would be an idolatrous, self-divinizing usurpation of God's right to determine and declare our ultimate purposes and values. Our epistemic and affective condition authorizes precisely "limitations on human freedom, provided they are appropriate and do not deprive him of all initiative." Such limitations "are absolutely necessary in the interest of man himself."³⁸

Instead politics should be seen as thoroughly perfectionist:

The purpose of the state visualized by the Holy Qur'ān is not negative but positive. The object of the state is not merely to prevent people from exploiting each other, to safeguard their liberty, and to protect its subjects from foreign invasion. It also

aims at evolving and developing that well-balanced system of social justice which has been set forth by God in His Holy Book. Its object is to eradicate all forms of evil and to encourage all types of virtue and excellence expressly mentioned by God in the Holy Qur'ān. For this purpose, political power will be made use of as and when the occasion demands; all means of propaganda and peaceful persuasion will be employed; the moral education of the people will also be undertaken; and social influence as well as the force of public opinion will be harnessed to the task.³⁹

The Islamic state is precisely distinguished by “the fact that it has to encourage and popularize those good practices that Islam desires humanity to adopt and to discourage, eradicate, and crush with full force all those evils from which Islam aims to purge mankind.”⁴⁰ But if there is a revolution in Mawdūdī's thought, it is not the idea that Islam informs in some way every aspect of life, but rather with the further idea that the Islamic *state* “seeks to mould every aspect of life and activity in consonance with its moral norms and program of social reform. In such a state no one can regard any field of his affairs as personal and private. Considered from this aspect, the Islamic state bears a kind of resemblance to the Fascist and Communist states.”⁴¹

Although later writings do attempt to stress a balance between the individual and the state, Mawdūdī always insists that in an Islamic state the individual must be denied the kind of absolute freedom that would allow him to “become an enemy of himself.” Whatever individual freedom to develop free from state power is preserved, it is the essential mission of “the state [to] help the individual bind himself to the principles of morality” and advance “mutual cooperation in the good.”⁴² As a goal about which there can be no rational or reasonable disagreement, this is a goal that in its essence can have no restriction or qualification.

But how will an Islamic political order itself (even if one accepts in principle that being ruled by the *sharī'a* is just) escape oligarchic capture and corruption? Any political order, not just democratic ones, is subject to the risk of degeneration into oligarchy or tyranny. What are

the superior mechanisms by which Mawdūdī thinks that his own ideal regime will avoid oligarchic decay or capture? Ironically, as I will elaborate below, much of his account of justice, virtue, and rule of law in an Islamic state rests on certain *democratic* precepts.

Sharī'a as Emancipation

Although God's right to command and legislate is fundamentally derived from His creation and ownership of the world (including man), and He is thus not answerable for the law He prescribes, He is also supreme in His knowledge and wisdom. Divine sovereignty is thus also justified in relation to what the divine law does for humans. We saw above that whenever humans claim sovereignty and dominion, this leads not only to the wronging of God but also to the harming of humans. Under human domination, "the human soul is inevitably deprived of its natural freedom; and man's mind and heart and his in-born faculties and aptitudes are subjected to such vexatious restrictions that the proper growth and development of his personality is arrested."⁴³

Applying the *sharī'a* is a positive project of human emancipation for Mawdūdī, as much as a project of removing or preventing injustice and corruption. The promise that the rule of *sharī'a* in society will unleash human freedom and facilitate the full flourishing of man's moral and intellectual potential depends on a vision of the *sharī'a*'s restrictions on human behavior as productive and enabling. The notion that true freedom depends on certain externally imposed restrictions is not hard to identify with and need not reflect some totalitarian perversion of language. But it does depend on a certain account of the authentic human self and how ordinary humans might prefer these restrictions even from the standpoint of their non-emancipated selves.

In Islam, that account depends on the concept of *fiṭra*, or the innate human condition. We humans are born with a certain nature that both defines what our thriving or flourishing looks like and also provides for our capacity to attain it. In traditional Islamic theology, the concept of *fiṭra* was closely linked to assumptions about mankind's inherent monotheism. Whatever the status of certain demonstrative,

logical proofs for the existence of God, it is claimed in such verses as Q. 7:172 that humans have an innate, instinctual intuition about the existence of an omnipotent, omniscient Creator.⁴⁴ (A plausible comparison perhaps is to Kant's "fact of reason," or the way in which the moral law cannot be reasoned out from prior data, but instead "forces itself upon us of itself."⁴⁵)

For the modern Islamist apologetic project, the meaning of *fiṭra* is broader than this innate apprehension of the existence of God. It is also related to man's moral and psychological health and flourishing. The embrace of monotheism is itself psychologically and emotionally emancipatory, because it "released the human soul from its fetters and set man's intellectual and material powers free from the bonds of slavery that held them in subjection."⁴⁶ If the alternatives to monotheism—materialism or some form of idolatry—involve misrecognition of the self and its essential ontological condition, then the acknowledgment of metaphysical reality itself might be experienced as emancipatory. But the more important assumption here relates to man's relationship to God's law. Although God is unconstrained by a preexisting moral order, His law is not received as arbitrary or frustrating, but rather as identical to happiness and flourishing. "God has retained the right of legislation in His own hand not in order to deprive man of his natural freedom but to safeguard that very freedom. His purpose is to save man from going astray and inviting his own ruin."⁴⁷

In the case of *sharīʿa* rulings in the realms of economics, gender relations, or homicide, "God has provided a permanent and immutable code of behavior for man, and it does not deprive him of any essential liberty nor does it dull the edge of his mental faculties." These rulings come at no moral or psychological cost to humans, but Mawdūdī still portrays the law as external to us and fixed. Because the code is obligatory and unchangeable, "you can, if you like, rebel against it, as some Muslim countries have done. But you cannot alter it. It will continue to be unalterable till the last day. It has its own avenues of growth and evolution, but no human being has any right to tamper with it. Whenever an Islamic state comes into existence, this code would form its fundamental law and will constitute the mainspring of all its legislation."⁴⁸

The view of human nature here is somewhat mixed. On the one hand, man is made to be uplifted and to excel. The law is not only about constraining man's desires and impulses but also about realizing human intellectual and material powers. True freedom is the successful realization of human capacities while minimizing acts of sin and rebellion. But on the other hand, Mawdūdī portrays man as in severe need of instruction and incentive to follow the path that leads to freedom. Mawdūdī thus seems to waver between a view of man as a being that merely needs help and one that needs salvation from himself.

This frequently leads to a complex balancing of the tropes of Islam's lenience and its severity. Islam is, first, relatively undemanding and forgiving: "except for a few things specially prohibited by the *sharī'a*, everything under the sun is permissible for a Muslim."⁴⁹ At the same time, the *sharī'a* is an all-comprehensive, all-embracing social order that lacks nothing, but is an organic whole that requires everything being included and functioning together.⁵⁰ But I would submit that this is less a matter of inconsistency or about the apologetic claim that the arduous or unforgiving elements of the law "are to be viewed in the background of the whole system of life covering the economic, social, political and educational spheres of human activity." It is not just a matter of what can be fairly demanded of humans before they are liable for punishment. It is about resolving the paradox of politics given humankind's dual nature: If we need the *sharī'a* to make us free, how can we choose the *sharī'a* before we are free? Although our nature may incline us to Islam, we need to be socialized into virtue through the law before we can fully apprehend the *sharī'a*'s emancipatory quality.

But the law alone does not work miracles. What is required is also a comprehensive social and psychological revolution alongside, but not reducible to, the creation of the legal order. Thus we see that the task of whomever is called upon to rule in the Islamic state is infused with the perfectionist mission of subject formation. In his later work on Islamic constitutional theory, the function of the executive in Mawdūdī's Islamic state is not only "to enforce the Directives of God conveyed through the Qur'ān and the Sunna" but also "to bring about a society ready to accept and adopt these directives for practical application in

life.”⁵¹ The people here appears to be portrayed somewhere in between the classical guardianship model of the passive flock, or *ra'iyya*, and the democratic ideal of “ruling and being ruled in turn.” The people are governed and are an object of political discipline and formation. But why is it so important that the people be morally transformed in this way? This clearly goes beyond the need to secure compliance or obedience with state power. There is a vision of popular acceptance and even participation, as hinted at in the notion that the governed also play a role in adopting and applying the divine plan in ordinary life. Mawdūdī not only reveals an assumption that the sovereignty of God will depend on the collective agency of the *umma* (rather than a guardian caliph or class of scholars), but also that the heteronomy and alterity of the divine law is bridged by law's congruence with human flourishing and power.

The theme of the moral perfection of the people as the path to social revolution exemplifies my argument throughout this book that divine sovereignty and popular sovereignty are less antagonistic principles of modern Islamist thought than mutually constituting commitments. Note how the people is portrayed here as a passive recipient of both moral command and formation, with “Islam” as the active agent: “Islam builds a higher system of morality by virtue of which mankind can realise its greatest potential. Islam purifies the soul from self-seeking egotism, tyranny, wantonness and indiscipline. It creates God-fearing men, devoted to their ideal, possessed of piety, abstinence and discipline and uncompromising in the face of truth. It induces feelings of moral responsibility and fosters the capacity for self-control. Islam generates kindness, generosity, mercy, sympathy, peace, disinterested goodwill, scrupulous fairness and truthfulness toward all creation in all situations. It nourishes noble qualities from which only good may be expected.”⁵² But this is immediately transformed into an authorization for collective political agency and moral responsibility: “Nor is Islam content only to make a man good: in the words of a Hadith, it makes him ‘the key to good and the barrier against evil’. In other words, it has been entrusted with the mission to spread good in the world and prevent evil. Such is the beauty and magnetism of Islamic morality that if some organised group possesses it and ac-

tively works toward the mission Islam has set it, then no power in the world can stand against it.” Divine sovereignty is a theology of both popular constraint and popular power.

At the same time, this turn to collective political responsibility functions as both authorization and alibi. God’s law is weak in the world today because Muslims have not embraced their own sovereign power. Into this vacuum non-Muslims have rushed with their own cunning. “The law of God regarding the granting of leadership . . . is this: if there is no organized collectivity that combines the Islamic moral attributes with the basic human moral attributes and which also has the capability to use material resources, then the leadership necessarily passes to that group which, although lacking Islamic moral virtues, is more advanced in its development of the basic human moral qualities and material resources than other existing groups.”⁵³ Mawdūdī is calling not only for popular virtue, but also for popular *virtù*.

Custodians of Law, Guardians of Politics: The Rule of Scholars

But for all that, by far the strongest emphasis in Mawdūdī’s constitutional theory is on the unmediated right of a certain kind of expert to represent the sovereignty of the divine law in political life. If politics is defined largely in terms of law, and that law is seen as received with significant precision prior to political life, then it is likely to follow that politics will be seen as subordinate to a certain kind of expert knowledge rather than public participation and contestation. Mawdūdī’s thought introduces certain concepts that contribute to the invention of a kind of popular sovereignty in modern Islamic thought, but this contribution in his own thought remains embryonic and constrained—much like his conception of politics itself.

When Mawdūdī asserts that “the entire code of life has been decreed by the All-Powerful Sovereign of the universe,” part of his assumption is that many laws have been laid down in explicit and unambiguous terms in the Qur’ān or Sunna, or “unalterable mandatory provisions of the Islamic Law which determine the complexion of the Islamic social order.”⁵⁴ But no one thinks that this represents the bulk of the law, and Mawdūdī is no exception. Much of the *sharī’a* is composed of

guiding principles, broad limitations on behavior that allow for further regulation within those limits, and extensive space for modification or extension of the law according to changing needs and requirements of the specific time and place. Mawdūdī mentions a number of the techniques and methods that have been developed for these purposes throughout the history of Islamic jurisprudence: disciplined interpretation of the texts of revelation (*ta'wīl*), analogical reasoning (*qiyās*), creative reinterpretation or extension of the law (*ijtihād*), and weighing the application of legal rulings in light of equity (*istiḥsān*). Even if God's own revelatory address to humans has been sealed, the execution of His will is dynamic and evolving in a variety of ways.

This gives us a new definition of what it means for God to be “sovereign”: whatever human legislative or administrative agency that exists is not only authorized solely by divine revelation but must not take the form of independent sovereign lawmaking. Rather, man-made law must be a primarily *interpretive* activity. God's sovereignty can be seen precisely through the common metaphor of “the sleeping sovereign.” God retains all moral right to legislate and command, and has in fact done so through revelation, but because that revelation is now sealed and final, it is as though God has commanded and then gone to sleep, leaving the execution of his command to his addressee. But who should be considered His deputy in this case?

What makes Mawdūdī still primarily a theorist and expositor of divine sovereignty is that he wishes to assign as much of the legislative-interpretive authority necessary for bringing God's law to life to experts, the traditionally trained scholars of Islam. When the flexibility given by the techniques of juridical interpretation are appreciated, no one can “reasonably entertain any misgiving as to the adaptability, the dynamic character, and the power of evolutionary growth of the Islamic Legal System. But it should be remembered that every Tom, Dick, and Harry is not entitled to legislate for the Islamic society. We do not recognize the right of every passerby to give verdicts on legal problems. Undoubtedly, it requires profound legal knowledge and a trained mind to enable one to speak with authority on any legal matter.”⁵⁵ The expert qualifications required to speak on law include most of the traditional qualifications for an Islamic *faqīh* or *muftī*: flu-

ency in Arabic, knowledge of the history and development of Islamic law, knowledge of Qur'ānic expression, mastery of *ḥadīth*, and sound practical legal judgment for the exercise of analogical reasoning. More advanced forms of pronouncing on the law for new circumstances (*ijtihād*) or considering the weight of equity and public interest against textualism require, in addition to technical expertise, "a developed sense of interpreting matters in the true Islamic spirit," "a complete command of the Islamic scheme of life," and "unstinted devotion and loyalty to Islam and a deep awareness of accountability before God."

So, expertise should be regarded as both technical and moral in nature. Mawdūdī's sense of the qualifications for this kind of expert legal authority is informed by his understanding of the classical Islamic legal tradition. But he is obviously acutely aware that Muslim societies are in a state of rupture with that tradition. "After centuries of stagnation and inertia, degeneration and mental slavery, we find that every aspect of our national life has been reduced to a mess." The task is restoration and renovation, not preservation of an existing order. Mawdūdī largely sees the project of regeneration through legal reform as an elite, top-down project to be pursued in the first order though a newly constituted "Academy of Law," charged with "tak[ing] stock of the entire work left behind by our ancestors in the field of law."⁵⁶

Mawdūdī portrays the restoration of God's sovereignty as something akin to a one-time, founding, lawgiving moment. This is not surprising given that he is writing in the context of the birth of a new state created expressly as a homeland for the Muslims of South Asia. Nonetheless, the guardianship role assigned to experts is significant as a kind of general constitutional principle. Precisely because "it is not binding to accept any and every saying or expression written in a book of *fiqh*," the resurrection and application of divine law is a productive task of political refounding. Importantly for present purposes, although some more basic, original political authority will have to "appoint a body of Islamic scholars . . . and to entrust them the task of codification of Islamic law," this act of delegation is a moral and constitutional obligation rather than an act of free constituent authority.

The guardianship role of scholarly experts in the area of lawgiving is thus extensive, if not fully sovereign. Not only are they fully responsible

for creating legal norms out of revealed texts and accepted methods (both of which themselves precede political life), but they are the primary generators of new law. They first “compile [divine] commandments and laws into a Code,” but then “additions to [this code] will continue to be made as fresh laws are framed by general consent or majority decision.” What seems clear here is that the “general consent or majority decision” required to transform a draft legislative proposal into promulgated law is that which obtains between the scholarly experts themselves: “If and when such an exhaustive code has been compiled [by the scholars], it will be the basic book of law and all the current [premodern] books of *fiqh* will serve as commentaries for this book.”⁵⁷ If this is not the final or sole word on constitutional theory, there appears here at the very least the suggestion that in principle scholars might have this authority to promulgate binding law simply on the basis of their own consensus.

Scholarly experts are not only given this kind of guardianship role when a founding legislative moment is imagined. Because “a State established on the basis of God’s *de jure* sovereignty cannot legislate in contravention of the Qur’an and Sunnah even if the consensus of its people demands it,”⁵⁸ there must be a completely independent “Supreme Court [with] the inherent and original jurisdiction to entertain and decide cases challenging the validity of the legislation enacted by the Head of the State or the Central or Provincial Legislatures, if such legislation is considered to be in contravention of the letter or the spirit of the constitution.”⁵⁹ Although actually existing Islamic constitutions (including that of Pakistan) tend to include secular judges, and not only classically trained *sharī‘a* judges, on such courts, the basic principle articulated here by Mawdūdī implies a kind of general right of experts in the divine law to occupy a guardianship role over political life.

One further example exemplifies the force of this right: the question of disobedience and rebellion. Mawdūdī derives from his reading of Q. 4:59 (“O you who have believed, obey God and obey the Messenger and those in authority among you. And if you disagree over anything, refer it to God and the Messenger, if you should believe in God and the Last Day”), among other principles, the right of disobedience: “The people [have] the right to differ with their rulers. In that case, the verdict of Allah of His Messenger is to be taken as final both by the rulers

and the ruled.”⁶⁰ What doctrine of political obligation is prescribed by this principle? It is not difficult to discern the potential for a kind of anarchy of judgment on questions of justice and fidelity to God. On this view, virtually any individual judgment that a civil law or command is repugnant to God’s law authorizes anything from passive disobedience to active rebellion. This could either be seen as authorizing a kind of anti-authoritarian ethos in (Sunni) Islam or wanton violence against the state in the name of a superior understanding of God’s revelation.

In the case of Mawdūdī’s constitutional theory, there is some effort to contain this dissemination of the right to speak in the name of divine sovereignty. He writes that the implication of the idea that “the verdict of Allah or His Messenger is to be taken as final both by the rulers and the ruled” is that “there must be some institution for deciding such cases in the light of the Qur’an and the Sunnah.” In the absence of any kind of church or canonically established office, because “the *sharī’a* does not prescribe any definite form for this, it *may* comprise a body of ‘Ulama.” In one of the most sensitive areas of political sovereignty, Mawdūdī’s commitment to divine sovereignty inclines toward vesting authority of ultimate judgment and adjudication in the (ill-defined) class of scholarly experts in the divine law.

But he cannot quite bring himself to leave it there. Mawdūdī’s theocratic and epistocratic commitments cannot even be fully articulated without invoking the specter of popular sovereignty. The ideological force behind the claim to uphold divine sovereignty is precisely that it is the only reliable and morally sound defense against the domination of humans by other humans. For this to hold, it seems to follow that the representation of divine sovereignty can never be fully and exclusively monopolized by any human agent or class of agents.

Mawdūdī’s “Theo-Democracy”: The Origins of Popular Sovereignty in Modern Islamist Political Theology

The need for divine sovereignty to be articulated through not only human but popular, quasi-democratic elements is not an embarrassment for the theory. For all of Mawdūdī’s own claim that “Islam altogether repudiates the philosophy of popular sovereignty and rears its

polity on the foundations of the sovereignty of God,” the elements of his own vision that are based on various forms of popular political agency are not only points of traditional Sunni doctrine but also points of pride. Indeed, I argue here that Mawdūdī represents an important turn toward a deepening of the theological foundations of populism in Islamic political thought. This turn to populism is encapsulated by the full statement that was quoted in part above: Islam, according to Mawdūdī “rears its polity [not only] on the foundations of the sovereignty of God [but also] on the vicegerency (*Khilāfa*) of man.”⁶¹

The People as the Source of Political Legitimacy

Mawdūdī is, of course, not an exception to the Sunni position that no ruler has a right to rule apart from some kind of authorization by the people and that all government should be seen as a delegated form of executive authority. But writing in the wake of decolonization, his language has changed. Islamic governance in general should be seen as founded on a form of contract or covenant (*‘ahd*) in which a free people is seen as the principal⁶² and the executive power of an Islamic state is “constituted by the general will of the Muslims who have the right to depose it.”⁶³

Mawdūdī’s thought now reflects far more the brute assumption of democratic legitimacy. The appointment of rulers “will of course be achieved through the democratic procedure of election.”⁶⁴ He takes it as essentially self-evident that when it comes to the election of the head of state, this “depends entirely on the will of the general public and nobody has the right to force himself as the amir [ruler].”⁶⁵ An elected head of state cannot even claim the right to temporary emergency powers if they would include the power of suspending the constitution at will, “for during the period of suspension he would be nothing short of an autocrat.”⁶⁶ His commitment to democracy in the sense that the ruler does not enjoy the power to decide on the exception is thus more robust than in some classical Western theories where the government can assume extensive discretionary powers in the shadow of the people’s original “sovereignty.”

Crucially, while he does derive some of these commitments from the Sunni idea that the original caliphate was “elective” (*intikhābiyya*),⁶⁷

there is no qualifying of the “democratic” requirement of Islamic governance by the claim that it is necessarily satisfied by representatives alone (the People Who Loose and Bind). What is obligatory on the *umma* is consultation about the selection of the ruler, and then between the rulers and the people. But beyond this, the precise mode of *shūrā* has been left for Muslims to figure out. The *sharī’a* itself “does not, therefore, lay down whether the people should be consulted directly or through their representatives; whether the representatives should be elected in general elections or through electoral colleges; whether the consultative body should have one house or two houses . . . the *sharī’a* leaves these problems open for solution according to the needs of the time.”⁶⁸ In this area, the actions of the earliest followers and successors of the prophet may be regarded as exemplary, but not normatively binding. Just because the first caliphs were not broadly elected, nor the electors themselves elected, doesn’t mean rulers can’t be today. The appointment of officials is subject to considerations of public interest: “We can adopt all such possible and permissible methods whereby we might be able to find out truly which persons enjoy the confidence of the masses in the greatest measure. Modern elections form one of these permissible methods.”⁶⁹

On Mawdūdī’s view, the *sharī’a* only imposes three broad conditions or restraints on how Muslims must “manage their affairs by consultation” (Q. 42:38).⁷⁰ First, he holds that God has required that (1) no collective affair can be conducted without consulting the people concerned; (2) all the people concerned should be consulted directly or through representatives (including women and non-Muslims); and (3) the consultation should be free, impartial, and genuine. Mawdūdī derives from something like the all-affected-interests principle a theory of considerable popular constituent power. If the people is the origin and effective cause of any executive power, and the *sharī’a* has only introduced broad principles for mutual consultation, then it follows that the creation of new political and consultative institutions, and the rules governing them, will have to flow upward from the people’s will.

This is a turn from exercising a role within a legal order to creating and authorizing that legal order. It is thus a recognition of the people’s right to legislate within the broad canopy of the *sharī’a*. Insofar as legislation is the archetypical attribute of sovereignty, the implication is

that the people has some participation in giving form to law within an Islamic state. This presents at least two obvious questions: What is scope of the people's basic constituent authority, and what other forms of lawmaking might the people participate in?

The People's Legislative Authority

Mawdūdī has a fair amount to say about the principles governing the people's authorization of political institutions. The basic constitutional principle in question here is that whereas God has legislated with considerable specificity on many areas of law, the divine law has left many areas open and undetermined. "All administrative matters and all questions about which no explicit injunction is to be found in the *sharī'a* are settled by consensus of opinion among the Muslims." But whereas we saw above that Mawdūdī's preference is to restrict this form of juristic interpretive activity to scholarly experts, that view does not, in fact, capture all of his commitments on the right to generate new legal norms. He writes in his early 1939 lecture that "every Muslim who is capable and qualified to give a sound opinion on matters of Islamic law, is entitled to interpret the law of God when such interpretation becomes necessary. In this sense, the Islamic polity is a democracy."⁷¹ This doctrine represents a remarkable opening toward a political theology of limited popular sovereignty in Islamic thought.

As it happens, the area of the law that Mawdūdī is most interested in in this context is constitutional law. On his reading, the traditional Islamic constitution is uncoded in a single place and instead based on guidelines found in the Qur'ān, Sunna, precedents of the early Caliphs, and then the treatises of the great jurists. Yet, though he claims that the *sharī'a* "has given us [only] the broad framework of . . . [Administrative and] Constitutional Law—and has left it to the discretion of Muslims to build up the details," this broad framework portrays considerable areas of constitutional law and theory as belonging to the pre-political. Mawdūdī thinks that there are canonical treatments in the divine law of the qualifications for holding public office, the status of non-Muslims, and the basic rights that an Islamic constitution must uphold.⁷² He writes that "the *sharī'a* has laid down the fundamentals" of constitu-

tional law, but that these include answers to questions pertaining to “the basic theory of the state . . . the source of authority of its legislation . . . the guiding principles of state-policy . . . the qualifications of the rulers of an Islamic state . . . the objectives of an Islamic state . . . in whom sovereignty resides and the different organs of the state . . . the mode of distribution of power between different organs . . . the rights and duties of Muslim [and non-Muslim] citizens.”⁷³ What is left over for popular determination is something like the institutional and administrative details of how these basic principles are incorporated. It must be said that the weight of Mawdūdī’s emphasis is not on the side of popular lawmaking or constituent power, but rather on the side of a pre-ordained constitution that constrains popular sovereignty.

Yet the remaining scope of popular constituent power should not be ignored. Mawdūdī rightly points out that historically, and in classical Islamic constitutional theory, the head of state (Imām, or caliph) was the focal point of all public authority. He appointed judges, consulted with important elite members of society, and supervised administration and justice. The Imām was not fully sovereign in the Hobbesian sense, but he represented the unity of public authority. This is the first point where Mawdūdī argues that because there are “no definite laws on [the] point” of the precise form of organizing relations between various offices, the people today “can amend or alter the details” of constitutional organization (although even here “the fundamentals will have to remain as they are”). For example, because it cannot be assumed that a head of state today will possess the same virtue as at the founding of Islam, “we can, therefore, consider restricting his administrative powers in order to safeguard against dictatorial tendencies. We may also restrain him from hearing and deciding cases, so that he may have no opportunity to obstruct the course of justice.”⁷⁴ Other areas that fall within the scope of popular constituent power include the rules for electing the head of state, the procedural bylaws governing the legislature, the specific powers and status of the courts, especially to overturn laws repugnant to the *sharī‘a*, and the precise status (advisory or binding) of the legislature vis-à-vis the executive.

The last is of particular interest for present purposes. Mawdūdī finds in the earliest Islamic tradition primarily a model of consultation

aiming at consensus, with final decision-making authority held by the head of state. But not only does he hold that today, given the unlikelihood of either a consultative body or the head of state attaining the virtue and wisdom of the earliest Muslims, “there is no other alternative but to restrict and to subordinate the Executive to the majority decisions of the Legislature.” What is more intriguing are his views on how to reconcile potential conflict between the authority and judgment of the head of state and that of the “people of consultation.” Mawdūdī imagines a kind of constitutional crisis in which “the Head of State and his advisors stick to their own individual opinions and neither of them is prepared to recede in favour of the other.” In this case, he holds that “recourse may be had to a referendum, after which the one whose opinion is rejected by the public should resign.”⁷⁵ Mawdūdī imagines that the ultimate authority to resolve such an emergency is none other than the people collectively, rather than a constituted political power.

A more stable and permanent version of this populism in matters of law is his proposal that when it comes to the issue of challenging laws on grounds of *sharīʿa* repugnancy, “there should be a specific provision in the Constitution that every citizen will have the right to challenge in the Supreme Court any law passed by a Legislature on the ground of its being repugnant to the teachings of the Qurʾān and the Sunna and therefore *ultra vires* of the Constitution.”⁷⁶ Moreover, this is not restricted to a formal institutional mechanism. He writes that “if anything is proved to be right in the light of the Qurʾān and the Sunna, it cannot be set aside by any judge on the ground that it is in conflict with the law enacted by the legislature.” But even this judicial nullification might fail, and in that case, if the people disobey the government because it has violated the *sharīʿa*, then “they will not be guilty of any crime; and it is the government whose orders must be set aside in such a case.”⁷⁷ The people have some authority and discretion in authorizing new institutions, but are more enthusiastically portrayed by Mawdūdī as the agent ultimately responsible for guarding the divine mandate.

This is a quite radical form of populism in two important senses: First, the idea that popular participation in politics should extend be-

yond electing representatives or somehow contributing to the formation of law or policy to the right to judge and formally contest outcomes; and second, the notion that this right to represent the divine law does not just belong to the people collectively, but also radiates down to individual members, points to something very important about this popular turn in modern Islamic thought. If the people has inherited some form of political authority directly, in the absence of a church or permanent representation of God's will and judgment, the responsibility to uphold God's presence on earth is difficult to monopolize. Rather, it pulses and circulates throughout the entire *umma*, down to the last capillaries. The present case is a very weak version of this imaginary, as it only involves raising legal claims within formal institutions. But the right to partake in sovereignty as judgment of the law at the individual level is a few steps from the right to partake in sovereignty as execution of the law. We see here the seed of a belief in a kind of "sovereign believer" who might claim the right to not only passively resist impious laws but also to enforce his own understandings of God's actual intentions.

The Caliphate of Man

But if Mawdūdī is reluctant to develop the institutional forms of political agency enjoyed by the people, he represents an important turn toward inflating the people's dignity and status. It is with Mawdūdī that the theme of the universal vicegerency of God—the caliphate of man—is popularized and given its distinctly political and collective interpretation. Recall Mawdūdī's foundational statement that Islam "rears its polity on the foundations of the sovereignty of God and the vicegerency (*Khilāfa*) of man."⁷⁸ In Mawdūdī's work, this theological claim takes on great importance, and a key aspect of the dialectic between divine and popular sovereignty enters the intellectual bloodstream of modern Islamic political thought.

Mawdūdī begins by introducing a common "stewardship" claim about mankind's inheritance of authority from God: "Everything mankind has on the earth by way of powers and capacities are nothing other than gifts from God. God has put man in a position to make use

of them in accordance with his wishes. In this, mankind is not the sovereign [*al-sultān al-mālik*⁷⁹] himself but is the deputy [caliph] of the original sovereign.”⁸⁰ Mawdūdī uses this to introduce the notion of a “collective caliphate.” Without rejecting the notion that there may an office of the caliphate occupied by a single man, Mawdūdī stresses that the true, immediate vicegerency of God is inherited by the entire community of the faithful. Every individual is a participant in this caliphate, and no one can usurp this status.

Mawdūdī of course uses the concept of vicegerency precisely to distinguish the people’s status from that of a sovereign. The people is God’s deputy, not a fully sovereign agent. “Islam uses the term ‘vicegerency’ (*khilāfa*) instead of sovereignty. Because, according to Islam, sovereignty belongs to God alone, anyone who holds power and rules in accordance with the laws of God would undoubtedly be the vicegerent of the Supreme Ruler and would not be authorized to exercise any powers other than those delegated to him.”⁸¹ In his commentary on the relevant Qur’ānic verse (2:30), he is more explicit still on the subordinate status implied by the term “caliphate”:

“*Khalīfah*” or vicegerent is one who exercises the authority delegated to him by his principal, and does so in the capacity of his deputy and agent. Hence, whatever authority he possesses is not inherently his own, but is derived from, and circumscribed by, the limits set by his principal. A vicegerent is not entitled to do what he pleases, but is obliged to carry out the will of his master. If the vicegerent were either to begin thinking himself the real owner and to use the authority delegated to him in whatever manner he pleased, or if he were to acknowledge someone other than the real owner as his lord and master and to follow his directions, these would be deemed acts of infidelity and rebellion.⁸²

But this doctrine of the universal caliphate should not therefore be dismissed. The force of the doctrine of the people collectively as God’s caliph is that *no one else is*: “In an Islamic state, the powers of ‘vicegerency’ are not vested in any one individual or family or group but in

the whole Muslim community when it is blessed with the possession of an independent state.”⁸³ The popular vicegerency is thus also a rejection of theocratic forms of domination: “The theocracy built up by Islam is not ruled by any particular religious class but by the whole community of Muslims including the rank and file. The entire Muslim population runs the state in accordance with the Book of God and the practice of His Prophet. . . . I would describe this system of government as a ‘theo-democracy,’ that is to say a divine democratic government, because under it Muslims have been given limited popular sovereignty under the suzerainty of God.”⁸⁴

Mawdūdī is not always reluctant to compare the idea of the popular vicegerency to popular sovereignty. He claims that it “establishes democracy in an Islamic State just as ‘popular sovereignty’ does it in a secular state [because authority is] delegated to the Muslim community of the State as a whole and not to any particular individual or group. As a result of this, the government can be formed only with the consent of the Muslims and can function and remain in power only as long as it enjoys their confidence.” Mawdūdī rightly notes that even the rightly guided Caliphs were not the “the vicegerents of God,” because they saw themselves as “not directly appointed by Allah but elected by the Muslim community to wield the delegated authority on their behalf.”⁸⁵

But this is a very limited form of agency if all it involves is the right to appoint a representative to fill an office that is already itself (along with its specific powers) preordained by the divine law. What is much more intriguing is the kind of authority to represent God’s own law-giving power this authorizes. If God is sovereign, and His sovereignty is primarily represented in His legislative enactments, then “those whose position it is to enforce God’s law on earth should be regarded as representatives of the Supreme Ruler.”⁸⁶ If there is no law outside of the agents who make it (through interpretation, enunciation, and enforcement), Mawdūdī thus comes very close to asserting that the law’s authority is vested in the people collectively. But it must be said here that Mawdūdī only introduces the possibility of a form of popular control over the divine law. In his own political theory, the emphasis

is starkly on the limits of the freedom of the *umma* to redefine its own essence and purposes.

What makes the people God's caliph is precisely that it has freely accepted the posited and ordained constraints of the divine law.⁸⁷ This is not just a statement about the limitations on the people's legislative authority. What is more profound is that the people *does not even exist* apart from the law. The *umma* does not exist in nature or by its own decision to form itself out of a multitude into a self-governing entity. The very existence of the *umma* is given in advance by its essence: a community dedicated to the *sharī'a* and the covenant with God to abide by it. The *umma* cannot freely reconstitute itself under a new form of government or law. It can only destroy itself through the adoption of a different law: "If an Islamic society consciously resolves not to accept the *sharī'a* and thinks that it will enact its own constitution and laws or borrow them from any other source in disregard of the *sharī'a*, such a society breaks its contracts with God and forfeits its right to be called 'Islamic.'"⁸⁸ Such a state or community "can be considered sovereign only when it refuses to submit to the commands of Allah and His Messenger, which, in its turn, means the negation of its Islamic character."⁸⁹ There are thus inherent and essential limits to the *umma*'s constituent and legislative authority.

Part of the reason for this ontological constraint is that the *umma* not only preexists its formation into a sovereign body politic, but even its own collective form. It is true that in the first instance the "democratic *khilāfa*" must be seen as "the collective right of all those who accept and admit God's absolute sovereignty over themselves and adopt the Divine Code, conveyed through the Prophet, as the Law above all Laws and Regulations."⁹⁰ But the collective nature of the caliphate refers to the rights of the people over its rulers, not over its members. The caliphate is also radically individual because the acts that create this relationship between man and God (belief in and acknowledgment of God, acceptance of the obligation of the law) are individual acts. Because the *umma* itself exists through these beliefs and practices, and not through a moment of political formation, the caliphate is enjoyed not only by the collective but also by individual Muslims.

This theme comes up again and again in Mawdūdī's writings. In his earliest expression of the doctrine of the universal caliphate, he states in quick succession that "the power to rule over the earth has been promised to the whole community of believers; it has not been stated that any particular person or class among them will be raised to that position. From this it follows that all believers are repositories of the Caliphate. The Caliphate granted by God to the faithful is the popular vicegerency and not a limited one. . . . Every believer is a Caliph of God in his individual capacity. By virtue of this position he is individually responsible to God."⁹¹ Since every individual is "the repository of the Caliphate" no any single individual can claim rights of dictatorship or suppress the rights of individual to express religious interpretations.

But at this point the powers of the individual "caliph of God" (or perhaps "sovereign believer") are not spelled out. As seen earlier, Mawdūdī does not subscribe to a particularly "protestant" conception of the law whereby any individual believer with access to the text can speak to the meaning of revelation. He continues to want as much legal authority as possible to remain in the hands of experts. Instead, at both the collective and individual level, Mawdūdī tends to emphasize the burden and responsibility that is implied by the status of the caliphate rather than the freedom of will or conscience.

The doctrine of man's vicegerency is the cornerstone of Mawdūdī's theological anthropology. What makes humans distinctly worthy of representing God on Earth is our capacity for moral responsibility.⁹² Insofar as this caliphate is not only a status, dignity, or authority, but also a charge and aspiration, it follows that persons can attain to it in different measure. But this goes beyond a question of degrees of moral perfection. It bears directly on the identity and constitution of the people that is entitled to claim the status of God's vicegerent on Earth.

All humans have the same moral capacities and responsibilities. Mawdūdī even asserts that moral development can occur on a certain secular plane, within which it refers primarily to the virtues conducive to success or thriving in the world.⁹³ But the question of the caliphate pertains to the right to a certain kind of political authority. This in turn depends on a very specific form of moral responsibility. When

Mawdūdī speaks of the collective caliphate, this community of believers is defined as “those who have entered into a covenant with God consciously, emanating from their own will, to submit to God’s rule.”⁹⁴ Acknowledgment of truth and voluntary acceptance of God’s covenant are, far from being arbitrary, the sole legitimate grounds for the exercise of political authority. This is also the answer to the puzzle of how Mawdūdī can speak of a political regime within which the people are so limited in their authority to choose and revise their laws as a “democracy.” It is not just about the authority to choose and criticize one’s rulers. Rather, it is that such a people can see themselves as fully self-governing because they can fathom no ends or laws other than the ones they have already committed to as a matter of self-constitution and self-recognition.

A Republic of Virtue

There might be something inherently paternalistic, even authoritarian, in all perfectionist conceptions of politics. Political power is legitimate when it advances true values or goods even when the subjects of political power reject those ends or goods. But perfectionist regimes can be more or less functionally authoritarian, with certain forms of epistocracy making no pretense to democratic representation or accountability. As we have seen, Mawdūdī’s own constitutional theory contains much that is institutionally anti-democratic, particularly in the extensive authority he would grant to experts in the divine law.

But in Mawdūdī’s vision, scholars and rulers are not just governing a passive, or politically inert, body of subjects. The community, as God’s caliph, is not only the immediate source of legitimacy for political offices but is given a limited direct role in interpreting and implementing the divine law. More importantly, the people’s moral development and capacities are seen as central to explaining how tyranny and domination are to be overcome. Mawdūdī does not rely solely on the supremacy of God’s law in governing institutions, or the duty of obedience to authorities that can be trusted with power. Rather, the vanquishing of the human propensity to lord over other humans is

attained through the formation of a moral people that refuses to be governed by man-made law.

This is the more profound implication of the doctrine of the caliphate of man. A certain kind of democracy is possible for those people already committed to specific and shared moral ends and sufficiently advanced in the knowledge and virtues that follow from these ends. The apparent contradiction between a people governing itself while being unfree to choose its own laws is resolved by positing the people's consciousness of its own emancipation through the law given to it by God. It is then that democracy is made safe for God's sovereignty: when the self-governing people wills for itself only those means and ends legislated by God. Mawdūdī's theo-democracy is thus a kind of republic, but a distinctly "republic of virtue."

If law and morality are constitutive of the very people, any balancing of power within an Islamic order must be subordinate to the principle of moral unity. The form of rule under the earliest successors to Muḥammad, on Mawdūdī's understanding of it, provides a vision of this ideal. On the one hand, there was a kind of supremacy of the caliph as "the only person to whom obedience and fealty were enjoined."⁹⁵ He imagines at the same time that the People Who Loose and Bind formed a kind of "Parliament" for the sitting caliph of the time. There was neither a strict separation between the executive and this consultative body ("he attended the Parliament himself and presided over all its sittings") nor moral divisions within it ("the whole parliament was his as long as he kept to the right path").

But it is apparent that the latter is the supreme principle. The executive's right to obedience ended as soon as he deviated from "the right path." The first locus of resistance was the notables. "As soon as he deviated, his whole party turned into opposition. Every member of his parliament had full freedom to vote for or against him on any point and even his ministers were free to oppose him if they felt impelled to do so honestly and sincerely." However, it is clear that for Mawdūdī a virtuous public is the true guarantor of morality.

He notes that the caliph was answerable before the people for both public and private acts at any time and place, citing the canonical oath of the first Caliph Abū Bakr: "Assist me when I act rightly, but if I go

wrong put me on the right path. Obey me as long as I remain loyal to God and His prophet. But if I disobey God and His prophet, then there is no obligation of obedience on you.” Naturally, Mawdūdī is aware that this direct form of rule cannot be compared to any modern regime type. And yet it remains the ideal around which politics should be organized. The ideal today requires precisely a moral transformation of the social body. It can “be achieved only when the society has been already developed in accordance with all the revolutionary teachings of Islam. And that is exactly why no sooner than an Islamic society deteriorated, this ideal of Government could not be fully adhered to.”⁹⁶

Certain distinctly republican ideals are in evidence: control over rulers by the people, the rule of law, and the people as the ultimate source and guarantee of a well-ordered society. This clearly does not escape Rousseau’s paradox of virtue in politics (if politics makes the people virtuous, how is the people to choose virtuous government prior to being educated by a virtuous political order?). But the Islamic conception might enjoy a distinct theoretical advantage. Knowledge and practice of religion is of course the source of virtue. Insofar as the people’s self-identification with the divine law preexists a specific political order, then the sovereignty of that law over politics can be imagined as arising out of a virtuous people’s willing of it.

Instructive here also are Mawdūdī’s recommendations for modern politics. He proposes four guiding principles if Muslims are to recreate the relationship between rulers and the people who existed at the beginning of Islam. First, rulers must be accountable to the public at large, and not only to even elected representatives. This is not only a question of the people’s rights or entitlements over its entrusted officers as God’s caliph, but also of how politics is most effectively constrained by law and morality. The virtuous people as a whole is a better embodiment of divine authority on Earth. Second, political parties must not be allowed to form in an Islamic state. Mawdūdī’s concerns here about the evils of faction are almost Madisonian. The party system “pollutes the Government with a false sense of loyalties,” and enables factions to perpetuate their hold on power. Third, the rules of government should be simple and non-confusing to ordinary people. This is not only to facilitate participation and judgment, but also to make it easy

for “the people in general to find out the root-cause of the evils that might arise from time to time.” Finally, public office should be limited to those possessing the moral and epistemic qualifications laid out by Islamic law.⁹⁷

Collectively, these principles point to an ideal of collective political responsibility underpinned less by institutional design than by the exercise of moral virtue. If Islam “aims to create a State on the basis of its ideology,” then only the faithful can be full citizens. “Upon the shoulders of the Muslim citizens of an Islamic State devolves the main burden of running it in accordance with Islam’s best traditions; as they alone are supposed to believe in it implicitly.”⁹⁸ This notion of an ideological state governed collectively by a people united in ideology is a constant from the beginning to the end of Mawdūdī’s writings.⁹⁹ And indeed, this is a vision that appeals to many seeking to orient political community in a uniquely Islamic manner. In the essay I quoted from at the beginning of this chapter, Muhammad Iqbal explained that Islam stands against any form of racial, caste, or ethnic distinction between humans. But its radical equality is based on shared moral purposes: “The inner cohesion of such a nation would consist . . . in the unity of the religious and political ideal; or, in the psychological fact of ‘likemindedness.’ The membership of this nation, consequently, would not be determined by birth, marriage, domicile or naturalisation. It would be determined by a public declaration of ‘likemindedness,’ and would terminate when the individual has ceased to be likeminded with others.”¹⁰⁰

The path to creating this system in the first place is heavily dependent on the willingness of the faithful to assume power. A righteous leadership, a vanguard of the people, is required to first seize the means of political and cultural power. “If power and leadership are vested in God-fearing people, society moves along the right lines, and even the wicked have to follow certain rules. Good flourishes, and evils, if not altogether eradicated, are contained.”¹⁰¹ Although the duly constituted Islamic state rests on strict legalism, the imperative to bring about this order is so foundational a religious and moral norm that it justifies almost all means. Because “only when power in society is in the hands of the Believers and the righteous, can the objectives of Islam be realised,”

then “it is the primary duty of all those who aspire to please God to launch an organised struggle, sparing neither life nor property, for this purpose.” The realization of God’s sovereignty on Earth is in effect the authorization of “the good to possess collective organisational power.”¹⁰² This “leadership of the good” is perhaps the culmination of Mawdūdī’s elaboration of the obligation to uphold divine sovereignty. As faith requires Muslims to establish and maintain “the way of life that has been ordained for the conduct of the world according to the will of God,” and because this end is unattainable without the highest degree of collective effort, there must exist a God-fearing community devoted to the sole purpose of establishing and maintaining the sovereignty of God on earth.”¹⁰³

The preceding hardly does justice to the length and complexity of Mawdūdī’s own political career and the pragmatism of the party he founded. But it gives us a sense of his ideal theory of sovereignty and power. The repetition in rhetoric of the exclusive sovereignty of God establishes a supreme authorization for the use of power. But it is perhaps more interesting for the related concepts and doctrines that it foregrounds. Inserting the principle of divine sovereignty into the form of the modern state and the structure of modern state–society relations requires more than insisting on the obligation of humans to obey their Creator. It requires an account of how the divine law is related to human welfare and emancipation. This in turn seems to suggest that a people must be somehow persuaded of the law’s choice worthiness, which is an implicit appeal to the people’s ultimate political responsibility and agency. Questions of the people’s status in relation to the divine are thus forced to the surface, as are questions of the conditions under which the people at large can be seen as the true custodians of ultimate authority.

All of these concepts are present in Mawdūdī’s thought, possibly co-existing in this way for the first time in the writings of a single thinker. But they are not all fully developed. Lots of Mawdūdī’s writings take the form of declarations that he considers to be self-explanatory, or minimal commentary on Qur’ānic verses and *ḥadīth* reports. Concepts

like the relationship of the *sharīʿa* to human nature, the caliphate of man, the relationship of the people to the public articulation of the divine law, and the kind of moral and epistemic qualities imagined in a well-ordered Islamic society receive fuller articulation in later writers, to whom we now turn.